

The following is for informational purposes only:

**California Board of Chiropractic Examiners
History of
Proposed Regulation 361: Manipulation Under Anesthesia (MUA)**

- Original Notice of October 21, 2004 Hearing - *Pages 2 through 4*
- Original Text of Proposed Regulation 361: Manipulation Under Anesthesia (MUA) introduced at the October 21, 2004 Hearing - *Pages 5 through 6*
- October 21, 2004 Initial Statement of Reasons - *Pages 7 through 8*
- Notice of Modifications to Text - *Page 9*
- Modified Text - *Pages 10 through 11*

NOTE: Proposed Regulation 361 was submitted to the California Office of Administrative Law on August 26, 2005

Board of Chiropractic Examiners

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Sacramento, California 95833-2931
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**Title 16, Division 4. Board of Chiropractic Examiners**

NOTICE IS HEREBY GIVEN that the Board of Chiropractic Examiners (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the State Capitol, Room 112, Sacramento, CA 95814 on October 21, 2004. Written comments must be received by the Board of Chiropractic Examiners at 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833-2931, or by fax at 916/263-5369, or by e-mail addressed to lmattthew@chiro.ca.gov no later than 5:00 p.m. on October 21, 2004, or must be received by the Board at the hearing. The Board of Chiropractic Examiners, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 4(b) of the Chiropractic Initiative Act [Section 1000-4(b) of the Business and Professions Code] and to implement, interpret or make specific Section 5 of the Chiropractic Initiative Act [Section 1000-5 of the Business and Professions Code], the Board of Chiropractic Examiners is considering changes to Division 4 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Adopt Section 361. Manipulation Under Anesthesia: Section 4(b) of the Chiropractic Initiative Act [Section 1000-4(b) of the Business and Professions Code] gives the Board the responsibility for implementing regulations they deem necessary for the performance of its work in order to maintain a high standard of professional services and the protection of the public.

Currently Section 302, Practice of Chiropractic allows chiropractors to manipulate and adjust the spinal column and other joints of the human body and there is no prohibition to the use of anesthesia in order to complete these manipulations. However, presently there is no regulation in effect that will ensure patient protection during treatment of manipulation under anesthesia (MUA). The adoption of Section 361 will enact a regulation which specifies the training required of licensees performing MUA procedures and define conditions under which the procedures may be performed.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an determination that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing business within the State of California, or the expansion of businesses currently doing business within the State of California.

Impact on Jobs/New Businesses: The Board of Chiropractic Examiners has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in complying with the proposed amendment.

Housing Costs: The Board has made an initial determination that the proposed regulatory action will not affect housing costs.

Small Business Impact: The proposed amendment may affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Board of Chiropractic Examiners must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board of Chiropractic Examiners has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

FEDERAL LAW

The proposed amendments do not duplicate or conflict with any federal law.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulation and of the initial statement of reasons and other information, if any, may be obtained at the hearing or prior to the hearing upon request from:

Board of Chiropractic Examiners
Lavella Matthews, Regulations Coordinator
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-4306

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at the above address.

As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulation, and the initial statement of reasons.

CONTACT PERSON

Inquiries concerning the proposed administrative action and inquiries regarding the substance of the proposed regulation may be addressed to Lavella Matthews at the above address or at 916/263-6465. An alternative contact for information regarding the proposed amendment is Catherine A. Hayes at the above address or at 916/263-5355.

When prepared, copies of the final statement of reasons will be available from the contacts listed above.

INTERNET ACCESS OF DOCUMENTS

Copies of the documents referred to in this notice are available via Internet at www.chiro.ca.gov.

361. Manipulation Under Anesthesia (MUA).

A licensed Doctor of Chiropractic (licensee) may perform manipulation under anesthesia (MUA) provided that:

(a) The licensee has completed an MUA training course, consisting of a minimum of 32 hours, provided by a Board-approved chiropractic college and that is approved by the Board; and,

(b) The licensee shall complete, not less than every three (3) years, a re-training course in MUA meeting the requirements of (a) of this section; and,

(c) The MUA procedure is performed at a hospital that is licensed by the California Department of Health Services and certified by either Medicare or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or is performed in an Ambulatory Surgery Center which meets the requirements of Health and Safety Code Section 1248-1248.5; and,

(d) The anesthetic, sedative or other drug is administered by a licensed medical or osteopathic physician, certified in anesthesiology through the American Board of Medical Specialties (ABMS); and,

(e) The patient has been evaluated by a medical or osteopathic physician who is familiar with MUA and has been approved by that physician for the MUA procedure/s and the administration of anesthesia, sedative or other drug; and,

(f) The licensee carries malpractice insurance with an endorsement for MUA.

A licensee who received MUA training prior to the effective date of Section 361 shall be deemed to be in compliance with the provisions of this section provided that:

1) The training was provided by a Board-approved continuing education provider within a period of three (3) years prior to the effective date of this section; and,

2) The MUA training provider was a Board-approved continuing education provider a

minimum of one (1) year prior to the effective date of this section.

This regulation does not establish a chiropractic specialty or specialty certification and a MUA-trained licensee may not use any related designation or title.

Failure to comply with the provisions of this section shall constitute unprofessional conduct.

NOTE: Authority cited: Section 1000-4 (b), Business and Professions

Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

Reference: Section 1000-4 (e), Business and Professions

Code (Chiropractic Initiative Act of California, Stats. 1923, p. lxxxviii).

Board of Chiropractic Examiners

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**Board of Chiropractic Examiners****Initial Statement of Reasons**

Hearing Date: October 21, 2004

Subject Matter of Proposed Regulations: Manipulation Under Anesthesia (MUA)

Sections Affected: Revise Section 361 of Division 4 of Title 16.

Problem Addressed: Section 4(b) of the Chiropractic Initiative Act of California gives the Board the responsibility for adopting regulations necessary for the performance of its work, effective enforcement and administration of this act, and the protection of the public.

Currently Section 302, Practice of Chiropractic allows chiropractors to manipulate and adjust the spinal column and other joints of the human body and there is no prohibition to the use of anesthesia during these manipulations. However, presently there is no regulation in effect that would ensure patient protection during treatment of manipulation under anesthesia (MUA) and licensees performing the procedure.

Specific Purpose of Each Adoption, Amendment, Or Repeal: The adoption of Section 361 will enact a regulation, which specifies the educational requirements for licensees who perform MUA procedures and the conditions under which the procedures may be performed.

Factual Basis

Factual basis for determination that each proposed change is necessary:

The mission of the Board of Chiropractic Examiners is to ensure protection of consumers through proper use of the licensing and enforcement authorities assigned to it by the Chiropractic Initiative Act. The Board investigates complaints and takes disciplinary action against licensees who present a danger to the health and safety of consumers.

Interest in MUA is increasing within the profession, and, thus, MUA procedures are being performed by a growing number of licensees. It is in the interest of the public safety that the Board should enact a regulation specifying educational requirements for licensees who perform MUA procedures and define the conditions under which the procedures may be performed.

The intention of this regulation is to minimize the likelihood of harm that may come as a result to the consumer through the indiscriminate practice of MUA by licensees lacking adequate training and/or direction. To ensure the highest quality of care for patients, licensees will be required to complete MUA training courses from a board-approved chiropractic college and retraining courses every three years thereafter. In addition, MUA procedures must be performed at a facility that is licensed or certified by the California Department of Health Services and approved by the appropriate accrediting agencies.

Underlying Data

Technical, theoretical or empirical studies or reports relied upon (if any): None

Business Impact

The Board has made an initial determination that the proposed regulatory action will not eliminate existing business, or the expansion of businesses currently doing business, within the State of California.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives

No alternative that was considered would be either more effective than or equally as effective as and less burdensome to affected private persons than the proposed regulation.

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**NOTICE OF MODIFICATIONS TO TEXT OF
PROPOSED REGULATIONS**

Pursuant to the requirements of Government Code section 11346.8 (c), and section 44 of Title 1 of the California Code of Regulations, the Board of Chiropractic Examiners is providing notice of changes made to proposed regulation section 361 which was the subject of a regulatory hearing on October 21, 2004. These changes are in response to comments received regarding the proposed regulation. A copy of the modified text is enclosed.

If you have any comments regarding the proposed changes, the Board will accept written comments from March 25, 2005, through April 09, 2005. All written comments must be submitted to the Board no later than 5:00 p.m. on April 09, 2005, and addressed to:

David Hinchee, Assistant Executive Director
Board of Chiropractic Examiners
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931

All written comments received on April 09, 2005, which pertain to the indicated changes, will be reviewed and responded to by the Board's staff as part of the compilation of the rulemaking file. Please limit your comments to the modified text.

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(b) The licensee shall complete, not less than every three (3) years, a re-training course in MUA meeting the requirements of (a) of this section; and,

(c) The MUA procedure is performed at a hospital that is licensed by the California Department of Health Services and certified by either Medicare or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or is performed in an Ambulatory Surgery Center which meets the requirements of Health and Safety Code Section 1248-1248.5; and,

~~(d) The anesthetic, sedative or other drug is administered by a licensed medical or osteopathic physician, certified in anesthesiology through the American Board of Medical Specialties (ABMS); and,~~

(d) The patient has been evaluated by a medical or osteopathic physician who is familiar with MUA and has been approved by that physician for the MUA procedure/s and the administration of anesthesia, sedative or other drug; and,

(e) The licensee carries malpractice insurance with an endorsement for MUA.

A licensee who received MUA training prior to the effective date of Section 361 shall be deemed to be in compliance with the provisions of this section provided that:

1) The training was provided by a Board-approved continuing education provider within a period of three (3) years prior to the effective date of this section; and,

2) The MUA training provider was a Board-approved continuing education provider a minimum of one (1) year prior to the effective date of this section.

This regulation does not establish a chiropractic specialty or specialty certification and a MUA-trained licensee may not use any related designation or title.

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